

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-488V

Filed: April 24, 2018

UNPUBLISHED

LESLIE LEWIS,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Tetanus Diphtheria  
acellular Pertussis (Tdap) Vaccine;  
Encephalitis

*Maximillian J. Muller, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Adriana Ruth Teitel, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On April 19, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered injuries resulting from adverse effects of a tetanus, diphtheria, and pertussis (“Tdap”) vaccination received on September 9, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 23, 2018, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case for the table injury of encephalitis. Respondent’s Rule 4(c) Report at 1. Specifically, respondent “has determined that petitioner has met the requirements for compensation under the Act. The medical

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

evidence demonstrates that petitioner is entitled to a presumption of causation, as her encephalitis first manifested within 72 hours of receipt of her Tdap vaccination and there is not a preponderance of the evidence that her condition is due to a factor unrelated to her vaccination.” *Id.* at 3. Respondent further agrees that petitioner’s encephalitis persisted for more than six months and that petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act. *Id.*

**In view of respondent’s position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master